

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 26 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF INCOME-TAX

Versus

SURAT DIST. CO.OP.MILK PRODUCERS UNION LTD.

Appearance:

MR RP BHATT for Petitioner

Mr.B.D.Karia and Mr.R.K.Patel for the Respondent

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 15/04/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question for the opinion of this Court under section 256(1) of the Income-tax Act, 1961.

" Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee was eligible to relief under section 80P(2)(d) of the Act on interest of Rs. 1,39,069/- received by the assessee from the co-operative societies without taking into account that a sum of Rs. 6,72,155/- was paid by the assessee as interest to other co-operative societies ?"

2. The matter relates to the assessment year 1980-81. The assessee is a co-operative society which had received interest amount of Rs. 1,39,069/- from other co-operative societies and had paid a sum of Rs. 6,72,135/- as interest to other co-operative societies. The I.T.O. rejected the claim of the assessee for exemption under section 80P(2)(d) of the Act in respect of the interest received by it from other co-operative societies. On appeal, C.I.T.(Appeals) directed the I.T.O. to allow deduction under section 80P(2)(d) of the Act. The Tribunal following its decision in assessee's own case, for the assessment year 1978-79, dismissed the Revenue's appeal.

3. From the decision of the Tribunal in assessee's own case for the assessment year 1978-79, and dealing with an identical question, this Court following its decision in C.I.T. vs. Surat District Co-operative Milk Producers Union Ltd., reported in 211 ITR, 726 left the question unanswered for the reasons given in its decision dated 30.1.98 with a direction to the Tribunal to decide the question on merits after considering the relevant facts and by applying the ratio laid down by the Supreme Court in its decision in Cambay Electric Supply Industrial Co.Ltd. vs. C.I.T. reported in 113 ITR, 84. Following the said decision, the question referred to this Court is left unanswered leaving it open to decide the question on merits after considering the relevant facts in light of the ratio of the decision of the Hon'ble Supreme Court in Cambay Electric Supply Industrial Co. Ltd. reported in 113 ITR, 84 and earlier decision of this Court in assessee's own case. The Reference stands disposed of accordingly with no order as to costs.

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